

## SUBCHAPTER B—ACQUISITION PLANNING

### PART 3005—PUBLICIZING CONTRACT ACTIONS

#### Subpart 3005.4—Release of Information

Sec.

3005.402 General public.

#### Subpart 3005.90—Publicizing Contract Actions for Personal Services Contracting

3005.9000 Applicability (USCG).

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

#### Subpart 3005.4—Release of Information

##### 3005.402 General public.

Requests for other specific records information shall be processed according to the DHS Freedom of Information Act rules and regulations (HSAR) 48 CFR 3024.203.

#### Subpart 3005.90—Publicizing Contract Actions for Personal Services Contracting.

##### 3005.9000 Applicability (USCG).

Contracts awarded by the U.S. Coast Guard using the procedures in (HSAR) 48 CFR 3037.104-91 are expressly authorized under section 1091 of Title 10 U.S.C. as amended by Public Law 107-296, for the Coast Guard and are exempt from the requirements of (FAR) 48 CFR part 5.

### PART 3006—COMPETITION REQUIREMENTS

#### Subpart 3006.2—Full and Open Competition After Exclusion of Sources

Sec.

3006.202 Establishing or maintaining alternative sources.

#### Subpart 3006.3—Other Than Full and Open Competition

3006.302 Circumstances permitting other than full and open competition.

3006.302-7 Public interest.

#### Subpart 3006.5—Competition Advocates

3006.501 Requirement.

3006.502 Duties and responsibilities.

#### Subpart 3006.90—Competition Requirements for Personal Services Contracting

3006.9000 Applicability (USCG).

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

#### Subpart 3006.2—Full and Open Competition After Exclusion of Sources

##### 3006.202 Establishing or maintaining alternative sources.

(b)(1) The HCA is delegated authority to approve a D&F in support of a contract action award under the authority of (FAR) 48 CFR 6.202(a). Submit D&F in the format per (HSAR) 48 CFR 3001.704.

#### Subpart 3006.3—Other Than Full and Open Competition

##### 3006.302 Circumstances permitting other than full and open competition.

##### 3006.302-7 Public interest.

(c)(1)(ii) Requests shall be prepared in writing by the contracting officer, using the format found in (HSAR) 48 CFR 3001.704, and submitted through the HCA to the CPO for review and transmittal to the Secretary for approval.

#### Subpart 3006.5—Competition Advocates

##### 3006.501 Requirement.

The DHS Senior Competition Advocate (SCA) is located in the Office of the Chief Procurement Officer (OCPO).

##### 3006.502 Duties and responsibilities.

(a) OE competition advocates will submit an annual report to the Departmental Advocate for Competition.

3006.9000

**Subpart 3006.90—Competition Requirements For Personal Services Contracting**

**3006.9000 Applicability (USCG).**

Contracts awarded by the U.S. Coast Guard using the procedures in (HSAR) 48 CFR 3037.104-91 are expressly authorized under Section 1091 of Title 10 U.S.C. as amended, for the Coast Guard and are exempt from the competition requirements of (FAR) 48 CFR part 6.

**PART 3007—ACQUISITION PLANNING [RESERVED]**

**PART 3008—REQUIRED SOURCES OF SUPPLIES AND SERVICES [RESERVED]**

**PART 3009—CONTRACTOR QUALIFICATIONS**

**Subpart 3009.1—Responsible Prospective Contractors**

Sec.

3009.104-70 Prohibition on contracts with corporate expatriates.

3009.104-71 General.

3009.104-72 Definitions.

3009.104-73 Special rules.

3009.104-74 Waiver.

3009.104-75 Clause.

**Subpart 3009.4—Debarment, Suspension, and Ineligibility**

3009.470 Reserve Officer Training Corps and military recruiting on campus.

3009.470-1 Definition.

3009.470-2 Policy.

3009.470-3 Procedures.

3009.470-4 Contract clause.

**Subpart 3009.5—Organizational and Consultant Conflicts of Interest**

3009.507 Solicitation provisions.

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**Subpart 3009.1—Responsible Prospective Contractors**

**3009.104-70 Prohibition on contracts with corporate expatriates.**

**3009.104-71 General.**

DHS may not enter into any contract with a foreign incorporated entity, which is treated as an inverted domestic corporation under subsection (b) of section 835 of the Homeland Security Act, Pub. L. 107-296.

**3009.104-72 Definitions.**

As used in this subpart—

*Expanded Affiliated Group* means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

*Foreign Incorporated Entity* means any entity which is, or but for subsection (b) of section 835 of the Homeland Security Act, Pub. L. 107-296, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

*Inverted Domestic Corporation.* A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes after the date of enactment of this Act, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) After the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) In the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(ii) In the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and